

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Gary Grell,**  
Appellant,

v.

**Scott County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 13-82-0917**  
**Parcel No. AGNY 022751006**

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On July 22, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Gary Grell was self-represented. County Attorney Robert Cusack is counsel for the Board of Review. County Assessor Dale Denklaue represented it at hearing. Both parties submitted evidence and testimony in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Gary Grell is the owner of a residentially classified, 12.72-acre, unimproved property in Allens Grove Township, Donahue, Iowa. A portion of the parcel receives a forest reservation exemption. (Exhibit C). Grell appeals from the Scott County Board of Review decision regarding his 2013 property assessment of \$94,000. Grell protested to the Board of Review claiming the subject property was misclassified under Iowa Code section 441.37(1)(a)(3) and that it should be classified as agricultural realty. The Board of Review denied the protest. The Board of Review minutes indicate it believed that “there is not enough land that is farmable.”

Grell then appealed to this Board reasserting his claim. We note, since agricultural property is valued differently than residential property, a classification change would necessitate a revaluation of the land, as well.

Grell testified the subject parcel is part of the farm that has been in his family since 1876. Grell's homestead is across the street. Grell rents the usable portion of the subject parcel to his nephew, who uses it in conjunction with his farming operation on adjacent land. In the past, the nephew used the pasture and timber for his livestock and the three acres of cropland for soybeans, corn, or alfalfa. Currently, Grell's testimony indicated the three acres of alfalfa is fed to the nephew's cattle. Grell no longer rents the timber to his nephew because it is in a forest or fruit tree exemption. At this Board's request, Grell provided a document which attempts to memorialize the gentlemen's agreement that has existed between him and his nephew since 2003. Under the agreement the nephew pays annual rent of \$125 per acre for the three acres he farms (\$375 total). The memorialization also shows the value at which Grell used to rent the land for livestock. (Exhibit 4). Grell testified the agricultural use is the only use of the subject parcel and the farming is done in good faith for a profit.

County Assessor Dale Denklau testified on behalf of the Board of Review. Denklau reported that the Board of Review did not know Grell's nephew farmed on adjacent land. Nevertheless, Denklau still does not believe the subject property's primary use is for agricultural purposes. It would also appear he questions the intent to profit.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). However, if property is classified agricultural it is to be assessed and valued based on its productivity and net earning capacity. Iowa Code § 441.21(1)(e).

Grell submits his property fits within the definition of 'agricultural land' in Iowa Code section 425A.2 and therefore should be classified agricultural. However, Chapter 425A concerns the Family Farm Tax Credit and its definition is not applicable to the classification of property for assessment purposes. Rather, the Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. *See* Iowa Admin. Code Ch. 701-71.1. (Exhibit C). Classifications are based on the best judgment of the assessor exercised following the guidelines set out in the rule. *Id.* Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). "Under administrative regulations adopted by the . . . Department . . . the determination of whether a particular property is 'agricultural' or [residential] is to be decided on the basis of its primary use." *Sevde v. Bd. of Review of City of Ames*, 434 N.W.2d 878, 880 (Iowa 1989). There can be only one classification per property. Iowa Admin. r. 701-71.1(1).

By administrative rule, residential property

shall include all lands and buildings which are primarily used or intended for human habitation, including those buildings located on agricultural land. Building used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage shed for household goods. Residential real estate located on agricultural land shall include only buildings as defined in this subrule.

...

Iowa Admin. Code r. 701-71.1(5).

Conversely, agricultural property

shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit.

...

Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in this subrule.

Iowa Admin. Code r. 701-71.1(3) (Exhibit A).

While the Board of Review maintains the subject property should be classified residential, we cannot agree. First, there is no residential use of the property. Moreover, the majority of the property is in forest reserve and thus exempt from taxation. The remaining three usable acres of the property are rented to Grell's nephew for crop production. It appears these three acres are currently planted in alfalfa, which Grell's nephew uses in conjunction his other farming. Thus, the subject land is used primarily for agricultural purposes. Grell also profits from the activity by renting the land. We cannot determine, however, whether the nephew intends to profit, but Grell testified the nephew raises cattle and has fifty additional acres that is part of his operation.

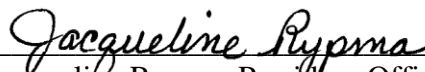
Following Iowa law and administrative rules governing the classification of real estate, we find the preponderance of the evidence in the record demonstrates the property's classification should be agricultural for the January 1, 2013, assessment.

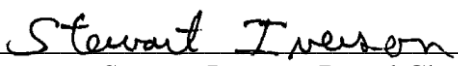
THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the Grell property located in Allens Grove Township, Donahue, Iowa, is classified agricultural realty.

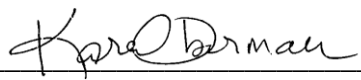
In order to properly value the property as agricultural realty, we order the Board of Review to determine the agricultural land value using the appropriate method prescribed by law and report those values to this Board within 20 days of the date of this Order. Once that value is provided, we will enter an order establishing the agricultural value of the subject property.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Scott County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 4th day of September, 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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